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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,085	03/31/2004	Anthony Stephen Ferenc	3993968-150413	7352

7590 08/18/2008  
Porter, Wright, Morris & Arthur LLP  
ATTN: Intellectual Property Department  
28th Floor  
41 South High Street  
Columbus, OH 43215-6194

EXAMINER
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JOHNSON, VICKY A

ART UNIT	PAPER NUMBER
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3682

MAIL DATE	DELIVERY MODE
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08/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,085	<b>Applicant(s)</b> FERENC, ANTHONY STEPHEN	
	<b>Examiner</b> Vicky A. Johnson	<b>Art Unit</b> 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-14 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-7, 10-14 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 2, 2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7, 10-14, and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 3, 5, 6, 10-12, 14, and 17-20 are indefinite because it is unclear how the blade and the terminal are secured or directly secured to the fixed support. The specification states that the blade and the terminal are rigidly secured to the fixed support, but only discloses that they are within the slots of the mounting bracket. It is unclear how the slots "secure" or "directly secure" the blade and the terminal to the fixed support.

Claims 7, 13, and 18 are indefinite because it is unclear how the switch blade extends to the mounting hole to contact the fastener. The specification discloses that

the blade 28 contacts a conductive insert 47 which forms the hole for the fastener. The drawing shows the insert as being a square member adjacent to the hole 20, but neither discloses the blade 28 contacting a fastener.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 10-14, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki et al (US 5,243,856) in view of Flumignan et al (US 4,431,884), as best understood.

Yamazaki et al disclose a parking brake actuator for a motor vehicle, said parking brake actuator comprising, in combination: a fixed support (2); a lever (4) pivotably connected to said support for movement between brake-releasing and brake-engaging positions; a locking mechanism (27) adapted to releasably maintain said lever in said brake-engaging position; an electrical switch (15) operable to indicate when said lever is out of said brake-releasing position ; wherein said switch is located near a mounting hole formed in the fixed support which receives a fastener to secure the fixed support to the motor vehicle (see Fig 1) and wherein said switch extends to the mounting hole to contact the fastener in the mounting hole to connect the switch to ground (well known).

Yamazaki et al do not disclose a fixed support comprised of plastic; wherein said switch includes a blade comprised of an electrically conductive material and directly secured to said fixed support; wherein said switch includes a terminal comprised of an electrically conductive material and directly secured to said fixed support;; and wherein said blade is spaced-apart from said terminal to open an electric circuit including the fastener when the lever is in the brake-releasing position and wherein said blade is in direct electrical contact with said terminal to close the electric circuit including the fastener when the lever is in the brake-engaging position.

Flumignan et al teach the use of a fixed support (60) comprised of plastic (col. 5 lines 2-10); wherein a switch including a blade (100) comprised of an electrically conductive material and directly secured to said fixed support; wherein said switch includes a terminal (88) comprised of an electrically conductive material and directly secured to said fixed support (see Fig 5B); and wherein said blade is spaced-apart from said terminal to open an electric circuit when the lever is in a first position and wherein said blade is in direct electrical contact with said terminal to close the electric circuit including the fastener when the lever is in a second position (see Fig 5C).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Yamazaki et al to include the teachings of Flumignan et al in order to facilitate assembly.

Re claims 2-6, 12, 14, and 19, Flumignan et al discloses a unitary mounting bracket with slots (74) as a one-piece unit (see Fig 5B)

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (571) 272-7106. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vicky A. Johnson/  
Primary Examiner, Art Unit 3682